



**Federal Communications Commission
Washington, D.C. 20554**

DA 04-3582
November 12, 2004

Mr. Robert J. Ingstad
P.O. Box 907
Valley City, North Dakota 58072

Dear Mr. Ingstad:

This letter is in response to your undated letter to Keith Larson of the Media Bureau, requesting that the Federal Communications Commission ("Commission") suspend L. Topaz Enterprises, Inc. ("Topaz") from bidding in the auction of FM broadcast construction permits, Auction No. 37.¹ You allege that Topaz "may be conducting illegal bidding" in Auction No. 37, and further allege that a principal of Topaz has "been in contact with other applicants" during the auction in violation of the Commission's rules. Auction No. 37 commenced on November 3, 2004 and is currently ongoing.²

The Commission takes allegations of wrongdoing very seriously. However, we are also sensitive to the fact that any action we take during the course of an ongoing auction, or before the long-form applications are filed, could harm the integrity of the auction process. Upon receipt of the short-form applications, the Commission carefully scrutinized each application to ensure compliance with the Commission's rules. Generally, we believe it is more prudent to address such allegations after the winning bidders have submitted their long-form applications (FCC Form 301), when there is greater opportunity for investigation of such allegations.³ As Auction No. 37 is ongoing, we are unable, at this time, to specify the long-form due date. Please note, however, that at the close of Auction No. 37, in accordance with Section 1.2108(b) of the Commission's rules, we will issue a public notice announcing the time frame and procedures for filing petitions to deny.

¹ Letter from Robert J. Ingstad, to Keith Larson, Media Bureau, Federal Communications Commission, undated.

² See "Auction of FM Broadcast Construction Permits; 456 Bidders Qualified to Participate in Auction No. 37," *Public Notice*, DA 04 -3252 (rel. Oct. 18, 2004).

³ See Baker Creek Communications, L.P., For Authority to Construct and Operate Local Multipoint Distribution Services In Multiple Basic Trading Areas, DA 98-1921, *Memorandum Opinion and Order*, 13 FCC Rcd 18709 (1998); Letter from Margaret W. Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, to Steven R. Sixberry, Nevada Wireless, DA 00-1949 (rel. August 24, 2000).

Accordingly, your request to suspend an Auction No. 37 bidder from participating in the auction is denied.

Sincerely,

Gary D. Michaels
Deputy Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau